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10/772,870	02/06/2004	John F. Crichton	10464	5553

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EXAMINER	
GLEITZ, RYAN M	

ART UNIT	PAPER NUMBER
2852	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,870	CRICHTON, JOHN F.	
	Examiner	Art Unit	
	Ryan Gleitz	2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) *2,3,8,10,13,14,16,19 and 21* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-7,9,11,12,15,17,18 and 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 December 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 9, 11, 15, 17, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Snelling et al. (US 5,926,676).

Snelling et al. disclose an electrographic development machine utilizing developer material having toner particles with magnetic content, the development machine including a photoreceptor belt (10), which is a dielectric film, configured for carrying an electrostatic image thereon.

Donor roller (42) is a toner roller disposed upon a first side of the dielectric film member (10), the toner roller (42) having a core (43) and an outer shell (41), the core (43) including a plurality of toner roller magnets shown by each S-N pair in figure 4 to have a respective north and south pole, the toner roller magnets being disposed such that adjacent pairs thereof have poles of opposite polarity disposed proximate the shell, the toner roller (42) providing the dielectric film member (10) with a supply of developer material.

Magnetic field tailoring unit (400) or rotating magnetic roller (500) are equivalent means for *generally* balancing the magnetic forces acting on the toner particle with magnetic content.

Regarding claim 4, the means for balancing is an electromagnetic structure.

Regarding claim 6, the electromagnetic structure comprises a rotating magnet assembly (500) disposed on a second side of the dielectric film member (10), the second side opposite the first side, the rotating magnet assembly (500) disposed generally opposite the toner roller (42), the rotating magnet assembly including a plurality of assembly magnets, each of the plurality of assembly magnets having respective poles, the assembly magnets adjustably arranged such that the poles thereof are of the same polarity as the poles of the toner roller magnets. See figure 5.

Regarding claim 9, the means for balancing is encased in a material that will reduce the tendency for carrier beads to deposit on the photoreceptor surface, col. 8, lines 30-32, which reads on facilitating cleaning.

Regarding claims 11 and 15, the means for balancing discussed above also reads on a method of counteracting development magnetic forces acting upon a toner particle having magnetic content within an electrographic development machine including creating a balancing magnetic force that interacts with the development magnetic force.

Regarding claims 17 and 20, the means for balancing also reads on a step of altering a magnetic field induced by the development magnet with a field altering structure disposed on a side of the dielectric member opposite the development electromagnet.

Regarding claim 18, the developer includes magnetic toner. Col. 8, lines 43.

Claims 1, 4, 5, 11, 12, 15, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kushima et al. (US 3,631,838).

Kushima et al. disclose an electrographic development machine including a dielectric film member (1), a toner roller (13) disposed upon a first side of the dielectric film member, the

toner roller having a core (11) and an outer shell (15), the core including a plurality of toner roller magnets, each of the toner roller magnets having a respective north and south pole, the toner roller magnets being disposed such that adjacent pairs thereof have poles of opposite polarity disposed proximate the shell. See figure 5.

A second magnetic roller, as shown in figure 8 and also numbered 13, reads on a means for *generally* balancing the magnetic forces acting on the toner particle with magnetic content.

Regarding claim 4, the means for balancing comprises an electromagnetic structure.

Regarding claim 5, the electromagnetic structure comprises a rotating magnet assembly disposed on a second side of the dielectric film member (1), and the assembly magnets (11) are arranged such that the poles thereof are opposite in polarity to corresponding and opposing the poles of the toner roller magnets. See figure 7.

Regarding claims 11, 15, 17, 18 and 20, the machine above also reads on a method of counteracting development magnetic forces including creating a balancing magnetic force that interacts with the development magnetic force.

Regarding claim 12, because the toner roller (13) and means for balancing (13) are formed of the same type of roller, the balancing force being approximately equal to the development magnetic force.

Claims 1, 4, 5-7, 11, 15, 17, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamiya (JP 61-281269).

Kamiya discloses an electrographic development machine including a dielectric film member (1) configured for carrying an electrostatic image thereon; a toner roller (3, 4) disposed

upon a first side of the dielectric film member (1), the toner (3, 4) roller having a core (4) and an outer shell (3), the core including a plurality of toner roller magnets, each of the toner roller magnets having a respective north and south pole, the toner roller magnets being disposed such that adjacent pairs thereof have poles of opposite polarity disposed proximate the shell. See figure 1.

Magnetic roller (6) is a means for *generally* balancing the magnetic forces acting on the toner particle with magnetic content.

Regarding claim 4, the means for balancing (6) has an electromagnetic structure.

Regarding claim 6, the electromagnetic structure is a rotating magnet assembly (6) disposed on a second side of the dielectric film member (1), the second side opposite the first side, the rotating magnet assembly (6) disposed generally opposite the toner roller (3, 4), the rotating magnet assembly (6) including a plurality of assembly magnets, each of the plurality of assembly magnets having respective poles, the assembly magnets adjustably arranged such that the poles thereof are phase shifted with respect to the poles of the toner roller magnets. The phase shift can be seen in figure 2.

Regarding claims 5 and 7, while the assembly magnets (6) alternate with the toner roll magnets (3), each of the assembly magnets (6), for example S' in figure 2, also is opposed to a correspond magnet of both the same polarity S and a magnet of the opposite polarity N of the toner roll magnets (3).

Regarding claims 11, 15, 17, 18, and 20, the electrographic developing machine also reads on a method of counteracting development magnetic forces acting upon a toner particle having magnetic content within an electrographic development machine.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4, 6, 11, 17, 18, and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending Application No. 10 /457959. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a photographic element is a dielectric film member and the whole magnetic field of two opposing magnetic rollers is a means for *generally* balancing magnetic forces having an electromagnetic structure.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

Applicant's arguments filed 19 December 2005 ("Response") have been fully considered but they are not persuasive.

Regarding the 35 USC 102(b) rejection under Kushima (US 3,631,838), applicant points to differences in the disclosure of Kushima but makes no attempt to distinguish the claims from Kushima. Response, p. 10. It is not clear why Applicant feels that Kushima does not teach a means for generally balancing the magnetic forces.

Regarding the 35 USC 102(b) rejection under Snelling (US 5,926, 676), as admitted by applicant, Snelling and the present invention both involve magnetic particles and nonmagnetic particles. Response, p. 10. Applicant submits that the "magnetic carrier and toner" of Snelling does not read on the "developer material having toner particles with magnetic content". Response, p. 10. However, these two descriptions are synonymous in the art. If Applicant's position is that Snelling uses magnetic carrier and nonmagnetic carrier, while the present invention uses nonmagnetic toner and magnetic carrier, then the claims should be amended as such to overcome Snelling. Additionally, the limitation "developer material having toner particles with magnetic content" appears only in the preamble and describes an intended use of the invention. In this case, Snelling need only provide structure capable of performing the intended use in order to read on the claim.

Regarding the 35 USC 102(b) rejection under Kamiya (JP 61-281269), Applicant did not address this rejection.

Regarding the double patenting rejection, Applicant did not address this rejection.

Applicant also seems to submit that the addition of the term "generally" into the claims somehow changes the scope of the claims and/or overcomes one of the above rejections. Response, p. 9. It is not understood how the word "generally" affects any of the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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